

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

BROOKE PEARCE, as next of friend of §
U.V., a minor, and JUSTINA GARCIA, §

Plaintiffs, §

v. §

Civil Action No. 4:18-cv-3196

FBI AGENT DOE, *in his individual* §
capacity, §

NICHOLAS CHASE CUNNINGHAM; §
SOPHIA PEREZ HEATH; §
JIMMY TONY SANCHEZ; §
DELIA GUALDINA VELASQUEZ; and §
THE UNITED STATES, §

Defendants. §

DEFENDANT UNITED STATES' OPPOSED
MOTION TO DESIGNATE RESPONSIBLE THIRD PARTIES

The United States of America hereby seeks leave to designate individuals as responsible third parties in this matter. In support of the motion, Defendant states as follows:

BACKGROUND

On January 24, 2018, Nicholas Chase Cunningham, Sophia Perez Hearth, Jimmy Tony Sanchez, and Delia Gualdina Sanchez planned and proceeded to kidnap Ulises Valladares to extort him for money and hold him for ransom. Dkt. 32 ¶ 1-2. While they had Ulises Valladares tied up, they tortured him. Dkt. 32 ¶ 42. When the Federal Bureau of Investigations (FBI) conducted a raid on the house, Ulises Valladares was accidentally shot in the rescue attempt. Cunningham, Hearth, Jimmy Sanchez, and Delia Sanchez decision to kidnap and torture Ulises

Valladares caused the need for him to be rescued and had a direct affect on Ulises Valladares' physical condition at the time of the raid.

LEGAL STANDARD

Pursuant to Section 33.004 of Texas Civil Practice and Remedies Code, a defendant may seek leave to designate a responsible third party to allow the trier of fact to determine the responsible third party's percentage of responsibility for plaintiff's harm and recovery. Tex. Civ. Prac. & Rem. Code §§ 33.003(a), 33.004. Moreover, the Texas Civil Practice and Remedies Code states that a motion to designate a known responsible third-party must be filed on or before the "60th day before the trial date" Tex. Civ. Prac. & Rem. Code §§ 33.004(a). Here, docket call is set for September 9, 2024, and Plaintiffs identified Cunningham, Hearth, Jimmy Sanchez, and Delia Sanchez as Defendants, but these parties never responded to summons or answered the complaint; therefore, defendant's motion is appropriate and timely.

In tort-based causes of action, Section 33.003(a) of the Texas Civil Practice and Remedies Code requires that the trier of fact determine the percentage of responsibility of each defendant and any designated responsible third party that caused or contributed to plaintiff's harm. Tex. Civ. Prac. & Rem. Code §§ 33.002(a), 33.003(a)

RESPONSIBLE THIRD PARTIES

Pursuant to Section 33.004 of the Texas Civil Practice and Remedies Code, the parties listed below are responsible third parties. Section 33.011(6) of the Texas Civil Practice and Remedies Code defines a "responsible third-party" as "any person who is alleged to have caused or contributed to causing in any way the harm for which recovery of damages is sought,

whether by negligent act or omission . . . by other conduct or activity that violates an applicable legal standard, or by any combination of these.” Tex. Civ. Prac. & Rem. Code § 33.011(6).

Cunningham, Hearth, Jimmy Sanchez, and Delia Sanchez are directly and vicariously liable for all injuries suffered by the Plaintiffs as set forth in Plaintiffs’ third amended complaint. Dkt. 32. Defendant designates as Cunningham, Hearth, Jimmy Sanchez, and Delia Sanchez as responsible third parties and these parties should be held liable for any damages the Court may find.

CONCLUSION

Nicholas Chase Cunningham, Sophia Perez Hearth, Jimmy Tony Sanchez, and Delia Gualdina Sanchez are obviously responsible for the Plaintiffs alleged injuries, and the damages for which Plaintiffs seek compensation. Therefore, the United States respectfully requests that Nicholas Chase Cunningham, Sophia Perez Hearth, Jimmy Tony Sanchez, and Delia Gualdina Sanchez be designated as responsible third-parties pursuant to Tex. Civ. Prac. & Rem. Code §§ 33.004.

Respectfully Submitted,

ALAMDAR S. HAMDANI
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Southern District of Texas

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF CONFERENCE

I certify that undersigned counsel contacted Plaintiffs' counsel on June 28, 2024, via email regarding their position on this motion. Plaintiffs' counsel did not respond to the communication. Therefore, undersigned counsel assumes Plaintiffs are opposed.

/s/ Ariel N. Wiley
Ariel N. Wiley
Assistant United States Attorney

CERTIFICATE OF SERVICE

I certify that on June 29, 2024, the foregoing pleading was filed with the Court through the Court's CM/ECF system on all parties and counsel registered with the Court CM/ECF system.

/s/ Ariel N. Wiley
Ariel N. Wiley
Assistant United States Attorney